

AMENDED IN ASSEMBLY JUNE 8, 2016

AMENDED IN ASSEMBLY JUNE 1, 2016

AMENDED IN SENATE MAY 3, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1190

Introduced by Senator Jackson
(Coauthor: Assembly Member Williams)

February 18, 2016

An act to amend Section 30324 of, and to add Section 30327.2 to, the Public Resources Code, relating to the California Coastal Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, as amended, Jackson. California Coastal Commission: ex parte communications: staff communications.

The California Coastal Act of 1976, for purposes of the act, defines an "ex parte communication" as any oral or written communication between a member of the California Coastal Commission and an interested person, as defined, about a matter within the commission's jurisdiction, as defined, that does not occur in a public hearing, workshop, or other official proceeding or on the official record of the proceeding on the matter, but excludes from that definition certain communications, including communications between a staff member acting in his or her official capacity and any commission member or interested person, as prescribed. The act prohibits a commission member and an interested person from conducting an ex parte communication unless the member fully discloses and makes public the ex parte communication, as specified, and prohibits a commission member or

alternate from making, participating in making, or in any other way attempting to use his or her official position to influence a commission decision about which the member or alternate has knowingly had an ex parte communication that has not been reported.

This bill would ~~require certain ex parte communications to be reported in writing, and included in the record of the applicable proceeding. The bill would~~ prohibit a commission member or an interested person from intentionally conducting any ex parte communication ~~concerning an adjudicative or enforcement proceeding before the commission or any oral or written communication regarding a pending enforcement investigation that does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter. The bill would require a commission member to report these communications in writing, would require the report to be placed in the public record, and would prohibit a commission member from voting on or otherwise participating in any commission proceeding to which one of these communications applies, even if the communication is reported.~~

This bill would also prohibit a commission member or alternate from attempting to use his or her official position to place undue influence, as defined, on commission staff for the purpose of altering the contents or conclusions of a commission staff report, analysis, or recommendation prior to a public hearing on that matter to which the report, analysis, or recommendation applies. The bill would forever disqualify a commission member or alternate who willfully violates that provision from holding any position at the commission.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30324 of the Public Resources Code is
- 2 amended to read:
- 3 30324. (a) No commission member, nor any interested person,
- 4 shall intentionally conduct ~~an either of the following:~~
- 5 (1) ~~An ex parte communication concerning an adjudicative or~~
- 6 ~~enforcement proceeding before the commission.~~ *communication.*
- 7 (2) *An oral or written communication regarding a pending*
- 8 *enforcement investigation that does not occur in a public hearing,*

1 *workshop, or other official proceeding, or on the official record*
2 *of the proceeding on the matter.*

3 (b) (1) If a commission member, or any interested person,
4 conducts ~~any ex parte communication, including~~ a communication
5 that is in violation of subdivision (a), the commission member
6 shall fully disclose and make public the communication by
7 providing a full report of the communication to the executive
8 director within seven days after the communication or, if the
9 communication occurs within seven days of the next commission
10 hearing, to the commission in writing to be included on the record
11 of the proceeding at that hearing.

12 (2) Notwithstanding Section 30327, if a commission member
13 conducts ~~an ex parte~~ a communication that is in violation of
14 subdivision (a), he or she shall not vote on or otherwise participate
15 in any commission proceeding to which the communication applies.

16 (c) (1) The commission shall adopt standard disclosure forms
17 for reporting ~~ex parte~~ communications *that are in violation of*
18 *subdivision (a)*, which shall include, but not be limited to, all of
19 the following information:

20 (A) The date, time, and location of the communication.

21 (B) (i) The identity of the person or persons initiating and the
22 person or persons receiving the communication.

23 (ii) The identity of the person on whose behalf the
24 communication was made.

25 (iii) The identity of all persons present during the
26 communication.

27 (C) A complete, comprehensive description of the content of
28 the ~~ex parte~~ communication, including a complete set of all text
29 and graphic material that was part of the communication.

30 (2) The executive director shall place in the public record any
31 report of ~~an ex parte communication~~ *made pursuant to this section.*

32 SEC. 2. Section 30327.2 is added to the Public Resources Code,
33 to read:

34 30327.2. (a) No commission member or alternate shall attempt
35 to use his or her official position to place undue influence, as
36 defined by Section 1575 of the Civil Code, on commission staff
37 for the purpose of altering the contents or conclusions of a
38 commission staff report, analysis, or recommendation prior to a
39 public hearing on that matter to which the staff report, analysis,
40 or recommendation applies.

1 (b) This section shall not be construed to prohibit a
2 commissioner or alternate from communicating with, or providing
3 information to, commission staff members about matters before
4 the commission.

5 (c) A commission member or alternate who willfully violates
6 subdivision (a) is forever disqualified from holding any position
7 at the commission.

8 (d) This section is intended to protect the public interest by
9 ensuring that commission members and alternates do not unduly
10 influence the contents of a staff report, analysis, or
11 recommendation.